

ZONING BOARD OF APPEALS
781-982-2100

Minutes
Zoning Board of Appeals
May 9, 2013
Cotter Room
7:00 p.m.

Members Present: James Haney, Lisa Bezanson, John Shepard, Sean Reynolds, Marshall Adams, Building Inspector/Zoning Enforcement Officer

Minutes – April 11, 2013 – motion to approve made by Mr. Reynolds, seconded by Mr. Shepard, 3 ayes, 1 abstention (Mrs. Bezanson).

7:00 p.m. **Petition of Zebs Realty Trust, 10 Kathleen Drive, Holbrook, for: special permits under 175-24D(1)(k) and 175-24D(3) to allow over 15% (and less than 50%) of the lot to be impervious, 175-24D(2) to allow the change in use of the site from an oil tank storage site to a residential site, 175-35 to work in the Flood Plain Overlay District, variances under 175-43A to allow 9' wide parking spaces, and 175-66A to reduce the buffer along the rear lot line at 351 Summer Street. The property is located on Assessors Plan 17, Plots 25, in the Transit Oriented Development District.** Voting members: James Haney, John Shepard, Sean Reynolds.

Atty. Reilly and Steve Zeboski attended. Meeting was continued waiting for hydro geologist report which came today. This will also be reviewed by Planning Board's engineer for site plan review. Well will stay in place and samples will be tested yearly. Mr. Shepard is concerned with the property to the right, but Mr. Zeboski does not own it.

Motion by Mr. Reynolds to approve as presented with language submitted by Atty. Reilly, seconded by Mr. Shepard, unanimous.

7:05 p.m. **Petition of Paul Crowley, 338 Brockton Avenue, Abington, for: special permit to construct in the FPWPD and waiver of EIS on Lot 1, 498 Linwood Street, under AZBL Sec. 175-35. The property is located on Assessors Plan 20, Plot 182, in the R-40 Zone.** Voting members: Lisa Bezanson, John Shepard, Sean Reynolds. Mrs. Bezanson made disclosure that she has done business with the Russell Wheatley Co. and Paul Crowley in the past, but has no interest in the current petition.

Sewer advisory – has limit of 250 gallons per day. Russ Wheatley, John Cotter and Paul Crowley gave presentation. This is for special permit to construct on Lot 1 in FPWPD and waiver of EIS because it is a lot to be reviewed by Conservation Commission, where those issues will be addressed on 5/14. Main concern for site is to engineer it to ensure that there is no runoff that will impact surrounding homes. In its existing condition it drops down from street. It was flagged by Brooke Monroe, of Pinebrooke

Consulting. An additional plan was submitted showing topography, drainage swales on north and southerly side lines which will direct runoff to rear of site so neither of the abutters will get flow onto their property. House will be a raised ranch keeping foundation up as high as possible. This area of town has poor leaching soils. Front of lot will be built up. Design is to lift up front yard slightly so run off goes towards front or sides and into drainage swales and then into wetlands at back of site through natural contours. They are proposing single family house, with driveway.

They will be issued an order of conditions by Conservation. Siltation fence is a minimum of 10' from wetlands. Will be going into ground 2.5 feet. Mr. Shepard – question on plan; Lot 3 is labeled as unbuildable lot. John Cotter – that is correct. Lot 1 conforms to zoning requirements. Has the property under a purchase and sale agreement.

Opened to floor:

Letter was read from Matthew Hannigan, 352 Diane Circle. There are already water problems on his and his neighbors' property. Any further construction in the area could undo the preventative work they have done.

Gary Trenholm 496 Linwood Street - is concerned with water issues.

Rich Nigrelli, 340 Diane Circle - concerned with water issues and environment. There are 4 inches out there now. Trees will be disturbed. Not good for the neighborhood. What happens if drainage doesn't work. Where will the water go – in his basement?

Laurence Fritz, 372 Diane Circle - abuts his property. He is continuously pumping, has been pumping for 30 years.

Connie Bithell, 362 Diane Circle – flooded out back till mid-June. They get water in basement and they have sump pump.

Kathleen Fritz, 372 Diane Circle – nothing has changed, it is still a Conservation issue.

Merilee Trenholm, 496 Linwood Street– they still pump and it's soggy out there. Concerned if more building goes on. It is a busy area as far as traffic.

Closed and back to table. Mr. Haney – there will always be some issue in this area. Mr. Reynolds – wants EIS before board acts, why are they trying to by-pass it? John Cotter – typically the board uses the order of conditions as EIS from the Conservation Commission. It is single family dwelling. It won't do anything to traffic or infrastructure. This lot is lower than the lots on Diane Circle. This lot will be diverting water from other houses on to his property out back. The houses in this area were built with full basements and they were too low. Mr. Crowley can't do anything about that. Mr. Shepard – lot 3 on the plan states it is not a buildable lot. Lot 3 won't be developed. Mr. Haney – typically EIS is waived for single family when it's going to Conservation. Can't make the neighborhood any worse than it is.

Mr. Reynolds - encouraged petitioners to work with neighbors. Mrs. Bezanson – Conservation won't allow them to put water on someone else's property. That is what the swales are for. Conservation would see that doesn't happen. John Cotter - it is a high water table area. They are controlling surface water runoff. Foundation will be above water table.

Mrs. Bezanson made the motion to approve the petition, seconded by Mr. Shepard, unanimous.

7:10 p.m. **Petition of Ralph Venuti, 816 Plymouth Street, Abington, for: a 22' frontage and lot width variance at 816 Plymouth Street, to subdivide property, with one lot conforming, and the other lot requiring relief, under Abington Zoning By-Laws Sec. 175-29. The property is located on Assessors Plan 24, Plot 65, in the R-30 Zone.** Voting members: James Haney, Lisa Bezanson, John Shepard.

Mrs. Bezanson made disclosure that she, her husband and their company have done business with the Russell Wheatley Co. in the past, but have no interest in this petition.

Sewer advisory – there is no capacity at the present time. John Cotter and Russell Wheatley gave presentation with Mr. Venuti. The property is located on east side of Plymouth Street. It is a sizable piece of property, 6 acres. Wants to create lot and sell the rest of the property. Frontage and lot width variances are being requested. Has 88' and needs additional 22' feet. They have looked at properties in the general area and there are quite a few that have 80-90 feet of frontage. It would be in keeping with area. Doesn't want to carry taxes on such a sizeable piece of property. It is in excess of 6 acres. Property almost goes down to electric easement. Doesn't feel it would be detrimental to area. Would like to sell it as single house lot.

Mr. Haney – why couldn't it be three lots with road? Mr. Venuti would leave that up to purchaser of property. For subdivision plan, it would be expensive process. Doesn't want to go to that point. Someone else would have that option. Purchaser could possibly get a right of way to Carriage Hill in back of this property. Mr. Reynolds – this doesn't comply with bylaw. Petitioner - house next to this has only 65' frontage.

Anyone else could come along and buy it and put in subdivision. Mr. Venuti would like the option for a buyer to have it as single family lot or for subdivision. If variance isn't allowed, subdivision could go in. Mr. Reynolds - resale value isn't applicable to bylaw. Mr. Shepard – could they put in condition that they couldn't put anything in front of lot. Mr. Reynolds – this isn't a hardship. Mr. Wheatley – Mr. Venuti is being taxed on a 7 acre parcel with one house on it.

Mrs. Bezanson referred to 175-82 part 3 - board can grant it on financial hardship re paying for taxes. Mr. Reynolds referred to case law.

Opened to floor:

Shawn Reilly - mentioned options for growth management as to estate lots. In other towns, you could get this lot without relief.

Closed to floor and brought back to the table. Mr. Haney – there is hardship in shape of lot. Mr. Wheatley – it is consistent with other lots in area. Conditions – if they were issued, could buyer come back to board and appeal? Could be conditioned for more than one house. Dead end street is only

allowed to be 600' long. John Cotter – it is more desirable to have buyer decide on how to go as far as subdivision or just one house. Debate over single home or subdivision with restrictions/conditions. Would be great property for single with barn and horses.

Motion by Mrs. Bezanson to approve the petition, seconded by Mr. Sheppard, unanimous.

7:20 p.m. **Petition of Roy Minnehan, 24 Merritt Road, Hanover, for: a variance to allow existing dwelling to be converted/confirmed as a legal 3-family with no changes to home's exterior design at 619 Randolph Street, under Abington Zoning By-Laws Sec. 175-21A(8). The property is located on Assessors Plan 58, Plot 95, in the R-30 Zone.** Voting members: James Haney, John Shepard, Sean Reynolds. Mrs. Bezanson made the disclosure that she, her husband and their company have done business with Atty. Reilly in the past, but have no interest in this petition.

Sewer advisory – has no bearing on sewer system. Atty. Shawn Reilly gave presentation. There are presently three units and have been for over 20 years. Was originally a two family. In 1980's, a bedroom over the barn was segregated and has been that way since. House has three meters. Discrepancy came to light when new trash program was instituted. It is only legally a two family. It has to be legalized as three. Submitted letters from abutters in support. There have been no complaints, it is a well-kept property. They aren't proposing anything new. They applied in '80's and was denied, but bylaws were different back then. And some of those requirements have been dropped. Everything done to the property has had permits. Copies of all permits were submitted. This has been there since '86 or '87. This is more recurring issue because of new appraisal lending guidelines. If it's not confirmed as three family, it will cause hardship, they would have to evict a tenant. Neighbors don't object. Not proposing to change anything to the property. Mr. Minnehan relies on this income and is disabled. Only way to cure this issue is to get it confirmed by board.

Mr. Shepard – looked at it, and it is well maintained. He was turned down and still did it. Tax status would change if it is confirmed. Atty. Reilly – was denied twice, could comply with dimensional requirements at the time, but he didn't hide what he was doing. He was led to believe that it was okay. This has existed for over 20 years, with support of neighbors. He just realigned what already existed – went from six bedrooms to six bedrooms. Opened to floor with no comments and brought back to the table.

Motion by Mr. Reynolds to approve confirmation to 3 family, seconded by Mr. Shepard, unanimous.

7:25 p.m. **Petition of Scott and Mary Littlefield, 160 Van Buren Drive, Abington, for: a special permit for accessory apartment (in-law) at 160 Van Buren Drive, under Abington Zoning By-Laws Sec. 175-32-I. The property is located on Assessors Plan 28, Plot 51, in the R-40 Zone.** Voting members: Lisa Bezanson, John Shepard, Sean Reynolds.

Sewer advisory – plans to be submitted to Sewer Commissioners before building permit issued. Mr. Littlefield - his mother-in-law sold her house and is going to live with them. Mr. Shepard – it is a well-maintained lot. They are not changing anything, just going up. It is within square footage allowed. Logistics of egresses will be worked out with Building Inspector. Opened to floor with no comments and brought back to table.

Motion by Mrs. Bezanson to approve the petition, seconded by Mr. Reynolds, unanimous.

7:30 p.m. **Petition of David Lee, 127 Oak Street, Abington, for: a special permit for more than one garage on a lot, to construct a 40' x 60' garage, and to store more than three antique cars in the garage at 127 Oak Street, under Abington Zoning By-Laws Sec. 175-26C. The property is located on Assessors Plan 65, Plot 22, in the R-20 Zone.** Voting members: James Haney, John Sheppard, Sean Reynolds. Mrs. Bezanson made the disclosure that she, her husband and their company have done business with the Russell Wheatley Co. in the past, but have no interest in this petition.

Sewer advisory – petition appears to have no bearing on sewer system. Mr. Haney made the disclosure that he had talked to Andy Burbine, but Mr. Burbine was not representing petitioner in this action. John Cotter and Russ Wheatley appeared with David Lee. Wants to construct storage building/garage. Has antique and classic cars under tarps. Wants to store them in the building. This would just be a garage, no bathrooms. Lot drops off about 8' where the building would go, so wouldn't be obstructive to neighbors' view. There are other non-permanent structures on this property. Building would conform to setback requirements. Would like to utilize the area as storage building.

Mr. Haney – are there separate deeds for property? There used to be, but they were combined. It is listed as one piece of property. Tent will probably be coming down. There are three cars in big garage. Mr. Reynolds – will this be a hobby shop? It won't be a shop, just to store cars and keep them out of weather. It was not advertised for a use variance. He may have an electric lift. Mr. Shepard – concerned about metal building. Mr. Reynolds – could condition it as storage, not to work. Mr. Haney – tent should be removed. This is not for commercial use. Building Inspector – hasn't received any complaints on other buildings on lot.

Motion by Mr. Reynolds to approve the petition for storage only, with tent to be removed upon completion of storage facility, seconded by Mr. Shepard, unanimous.

Meeting adjourned at 8:50 p.m.

Respectfully submitted,

Nancy Hurst